

REMARKS

The last Office Action of January 15, 2004 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-22 are pending in the application. Claims 2-5, 9, 12, 15-17, 20-21 have been amended. Claim 1 has been canceled. Claims 23, 24, 25 have been added. A total of 24 claims is now on file. The fee of \$36.00 for filing two claims in excess of twenty is enclosed.

It is noted that the drawings are objected to because of applicant's failure to show every feature set forth in the claims. Drawing proposals showing the required changes are submitted herewith.

It is further noted that claims 5, 12, 13, 15 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4, 12, 16-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,893,873 (hereinafter "Rader").

Claims 21 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rader in view of U.S. Pat. No. 4,402,420 (hereinafter "Chernak").

It is noted with appreciation that claims 5 and 7 are indicated allowable if rewritten in independent form to overcome the rejection under 35 U.S.C. §112 and to include all of the limitations of the base claim and any intervening claims.

OBJECTION TO THE TITLE

Applicant has changed the title to read --OPHTHALMIC MICROSURGICAL INSTRUMENT --.

Withdrawal of the objection to the title is thus respectfully requested.

OBJECTION TO THE DRAWING

Applicant submits herewith new Fig. 2D to show the feature stop member in the slot. The specification has been amended to make it consistent with the amendments to the drawing. No new matter has been added.

Applicant has made amendments to FIG.2A in order to show a reference numeral for the "rear end". The specification has been amended to make it consistent with the amendment. No new matter has been added.

Withdrawal of the objection to the drawing is thus respectfully requested.

OBJECTION TO THE SPECIFICATION

The Examiner's objection is not understood. Claim 4 and 5 set forth "a rear end" as did claim 1. It is thus believed to be a proper way of setting forth the term.

With respect to the Examiner's objection to the labels of operating member, applicant points out that paragraph [0056] sets forth a clamp-type operating member 95 and a clamp-type member 105. As such the operating members are adequately identified.

REJECTION OF CLAIMS 12, 13 AND 15 UNDER 35 U.S.C. §112, FIRST PARAGRAPH

In view of the above amendments, it is believed that all issues raised by the Examiner have been addressed and obviated.

Claim 5 has been amended to eliminate the phrase:" thereby spreading the housing parts apart". It is believed that this elimination renders the claim definite and obviates the deficiency under 35 U.S.C. §112, first paragraph.

Claim 12 has been amended to indicate that the housing parts are deflecting inwards when they are squeezed together. This is commensurate with the description in paragraph [0061] as well as the drawings. Since claims 13 and 15 are dependent on claim 12, the rejection of these claims has also been obviated.

With respect to claim 15, the Examiner has questioned the operation of the stop members. As seen in FIG. 2A the unit is in squeezed position, so both stop members occupy the recess 33. The recess is shown in FIGs 2A, 2B but also 3A and 5A. For further clarifying the feature, applicant has submitted herewith FIG. 2D in which the stop members are seen in a plan view in broken lines occupying the slot. Support for the stop members lodging in the slot 33 of the support arm is found in paragraph [0056]. The stops when lodged in the slot 33 (upon squeezing the housing parts together) prevents lateral displacement of the housing members relative to the support arm, since the stop members are sitting in the slot of the support arm. Applicant asserts there is ample description and disclosure in the drawings to support the function of the stop members and their function is quite simple. In view of the above, it is applicant's contention that the rejection of claim 5 is unwarranted and should be withdrawn.

Withdrawal of the rejection of the claims 5, 12, 13 and 15 under 35 U.S.C. §112, first paragraph is thus respectfully requested.

REJECTION OF CLAIMS 1, 4, 12, AND 16-19 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY RADER

In view of the above amendments in which claims 4 and 5 were deemed allowable over the prior art, the claims that are dependent from claims 4 and 5 likewise distinguish over the prior art and are therefore allowable. Further discussion of the prior art is thus not necessary.

**REJECTION OF CLAIMS 21 AND 22 UNDER 35 U.S.C. §103(a) AS BEING
UNPATENTABLE OVER RADER IN VIEW OF CHERNAK**

In view of the above amendments in which claims 4 and 5 were deemed allowable over the prior art, the claims that are now dependent from claims 4 and 5 likewise distinguish over the prior art and are therefore allowable. Further discussion of the prior art is thus not necessary.

CITED REFERENCES

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

It is noted with appreciation that the Examiner has made of record the references cited in the instant application.

CONCLUSION

Applicant believes that when the Examiner reconsiders the claims in the light of the above comments, he will agree that the invention is in no way properly met or anticipated or even suggested by any of the references however they are considered.

None of the references discloses an ophthalmic microsurgical instrument with the mechanism and functional unit as claimed here.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered in patentable form and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

The Commissioner is hereby authorized to charge fees which may be required, or credit any overpayment to Deposit Account No. 06-0502.

Respectfully submitted,

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